

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 96-0588 ST

Sales Tax

Calendar Years 1993-1995

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ISSUE(s)

I. Sales Tax – rental of rooms

Authority: IC 6-2.5-4.4, 45 IAC 2.2-4-9, 1F# 10

Taxpayer protests the imposition of tax for rooms rented to exempt organizations.

STATEMENT OF FACTS

Taxpayer is an Indiana S. Corporation that sells food and drink and occasionally rents rooms for consideration to various groups and organizations.

I. Sales Tax – rental of rooms

DISCUSSION

At issue is whether taxpayer is required to charge sales tax for rental rooms.

IC 6-2.5-5-25 (a) states:

(a) Transactions involving tangible personal property or service are exempt from the state gross retail tax, if the person acquiring the property or service:

(1) is an organization which is granted a gross income tax exemption under IC 6-2.1-3-20, IC 6-2.1-3-21, or IC 6-2.1-3-22;

- (2) primarily uses the property or service to carry on or to raise money to carry on the not-for-profit purpose for which it receives the gross income tax exemption; and
- (3) is not an organization operated predominantly for social purposes

Rule 45 IAC 2.2-5-55 (e) provides:

- (e) Predominantly social not-for-profit organizations. A social organization will be deemed to exist for predominantly social purposes if more than fifty (50%) percent of its expenditures are for, or related to, social activities. Social activities include food and beverage services, furnishing sleeping rooms, club rooms, lounges, recreational activities and any other social activities.

Sales Tax information Bulletin #10, interpreting both IC 6-2.5-5-25 (a) and Rule 45 IAC 2.2-5-55 (e), states, "Purchases of tangible personal property to be used by organizations organized and operated predominately for social purposes are not exempt. If over fifty percent (50%) of its expenditures are for or related to social activities such as food and beverage services, golf courses, swimming pools, dances, parties, and other similar social activities, the organizations will be considered to be predominantly organized and operated for social purposes."

Here, the taxpayer is a company that is defined as one operated predominantly for social purposes, therefore, does not satisfy the exemption provisions of IC 6-2.5-5-25 resulting in the exemption of sales tax.

FINDING

The Department finds that the taxpayer does not fall within the ambit of the exemption provisions of IC 6-2.5-5-25, hence, the taxpayer's rental of rooms is subject to sales tax.